



Utah Department Of Commerce

2002 Annual Report

This report is presented as required by law to provide highlights of the activities and accomplishments of the Department of Commerce during the period between July 1, 2001, through June 30, 2002. The report presents a brief overview of the business conducted by the employees of the Department of Commerce as they have striven to serve the needs of the citizens of Utah.

The Department of Commerce is comprised of approximately 250 dedicated, hard working, and talented employees, assisted by several hundred citizens who serve on boards, commissions and advisory committees. The Department affects the lives of literally hundreds of thousands of Utahns as they go about their daily business and engaged in their professions and occupations.

The Department of Commerce is an administrative agency charged with administering laws passed by the Legislature and signed by the Governor. The Department of Commerce is divided into six agencies and the Committee of Consumer Services. The agencies, referred to as Divisions, include the Division of Consumer Protection, the Division of Real Estate, the Division of Corporations, the Division of Securities, the Division of Occupational and Professional Licensing and the Division of Public Utilities.

The Department of Commerce is charged with facilitating commerce and the protection of consumers, education, and the enforcement of fair commercial standards. We make every effort to fulfill this charge in a manner that balances the need for regulatory protections and the economic needs and challenges faced by the public as well as the business community

We are proud of the Department of Commerce and the people who work here. We very much appreciate the support we enjoy from Michael O. Leavitt and his staff and the Legislature of the State of Utah.

Sincerely,

Ted Boyer

**Ted Boyer
Executive Director**

Division of Consumer Protection

The Division enforces 13 specific consumer protection laws ranging from the automobile “lemon law” to regulations governing telemarketers, charities, sweepstakes and credit repair organizations. It also oversees Utah’s Consumer Sales Practices Act, which is the umbrella regulation prohibiting misrepresentation between business and consumers.

The Division is dedicated to providing a helpful regulatory environment for businesses that is firm, reasonable, fair and supportive of Governor Leavitt’s objective of quality customer service and quality of life for all citizens.

Consumer Protection statutes can be found on our website at www.commerce.utah.gov/dcp. They are called:

- **Business Opportunity Disclosure Act**
- **Charitable Solicitations Act**
- **Consumer Sales Practices Act**
- **Credit Services Organizations Act**
- **Health Spa Services Protection Act**
- **Music Licensing Practices Act**
- **New Motor Vehicle Warranties Act (Lemon Law)**
- **Personal Introduction Services Act**
- **Postsecondary Proprietary School Act**
- **Prize Notices Regulation Act**
- **Telephone and Facsimile Solicitation Act**
- **Telephone Fraud Prevention Act**
- **Unfair Practices Act**

Enforcement

The Division received more than 100 telephone inquiries each day from the public this fiscal year. Of them, over 2900 incidents were assigned and investigated, 128 were closed through administrative actions and 37 were closed criminally.

During fiscal year 2002, Division Staff processed more than 2900 applications for charities, professional fundraisers, credit service organizations, personal introduction services, telemarketers, health spas and business opportunities. The Division will provide general information to consumers over the telephone. However, all complaints regarding specific companies or products are required to be submitted in writing to the Division by mail, fax or e-mail.

Telephone: 530-6601
Mail: P.O. Box 146704
Salt Lake City, Utah
84114-6704
FAX: 530-6001
E-Mail: consumerprotection@utah.gov

July 1, 2001 – June 30, 2002

Incidents Reported and Investigated	2,965
Cases Closed	1,889
Cases Closed – Administrative Action	128
Cases Closed – Criminal Action	37
Cases Closed – Civil Action	1

TOP TEN UTAH SCAMS

- 1. Internet Auctions/Offerers**
- 2. Identity Theft**
- 3. Telemarketing/Canadian Promotions**
- 4. Business Opportunities**
- 5. Mail Order/Advertising**
- 6. Cellular Phone Problems**
- 7. Auto Repair & Used Car Sales**
- 8. Charitable Solicitations**
- 9. “Do Not Call” Complaints/Unsolicited Faxes**
- 10. Unauthorized Billings/Medical/Dental Billing Fraud**

New Motor Vehicle Warranties Act (Lemon Law)

Consumers who buy or lease a new vehicle or motor home with significant defects that cannot be repaired can obtain relief under the New Motor Vehicle Warranties Act. During FY 2002, the Division received 12 complaints regarding the “Lemon Law” and in one instance, assisted in getting restitution for a \$40,000 vehicle. Four cases are pending.

Business Opportunities	
Approved	41
Exempt	725
Charities	1425
Credit Services	
Organizations	10
Health Spas	
Approved	115
Exempt	21
Personal	
Introduction	2
Professional Fund	
Raisers	130
Telemarketing	31

Communication & Education

The Division delivered its message of fraud prevention to citizens across the state. Division employees traveled throughout Utah giving presentations to civic and community organizations, senior citizens, school and church groups. The best way to prevent consumers from losing their hard-earned money to scam artists is to educate them about problems they may encounter and how to avoid them.

The Telephone Consumer Protection Act passed by the United States Congress in 1991 restricts telemarketers from calling residential numbers unless "the telemarketer has instituted written policies and procedures for maintaining a "do not call" list for subscribers who request not to receive further solicitations". In response to numerous complaints it received, the Division produced a new public service announcement to inform consumers about how to be put on a telemarketing "Do Not Call" list.

Consumer "Urban Myths"

"I can return my car within three days of purchase."

This is simply not true. Once an individual signs the purchase documents, he or she has bought a car. This is no provision in the law that allows for them to change their mind. The time to determine whether or not a person can afford payments or really likes a car is before the purchase is made.

"My credit report information is confidential."

Any business, individual or government agency may request a credit report for its legitimate business needs involving a transaction with the consumer. These include: credit granting considerations; review or collection of an account; employment considerations; insurance underwriting; a potential partnership; security clearance; or lease. Reports may also be issued at the written request of the consumer or a court. Recently, changes in federal law allow corporate affiliates to share

IDENTITY FRAUD CONSUMER TIPS

- Do not give out personal information on the telephone, through the mail or over the Internet unless you have initiated the contact or know who you're dealing with.
- Tear up receipts, old bank statements, and unused credit card offers.
- Pay attention to billing cycles; call creditors if statements are lost; and review accounts carefully for fraud.
- Order copies of your credit report periodically to ensure accuracy.
- Protect your Personal Identification Number (PIN) used for banking services.
- Don't mail bills from your mailbox and be sure to empty your mailbox promptly.
- Keep infrequently used credit cards and your supply of checks in a safe place.
- Report suspected fraud immediately.

a great deal of data, and these days, it's a rare company that is not affiliated with somebody. Consumers must actively "opt out" (using toll-free numbers now found in the fine print of all pre-approved and pre-selected credit offers) to avoid having their names included on lists of individuals whose spending habits meet certain parameters, which are sold to all sorts of merchants and creditors.

"My creditors can't call me at work."

The Fair Debt Collection Practices Act and the Fair Credit Reporting Act are designed to protect consumers from certain business practices, including harassment or threats, by debt collectors and collection agencies; the laws also provide for penalties against businesses that violate these laws. However, these laws only apply to outside collection agencies. In Utah, there are no laws preventing the actual creditor from taking steps to collect their own debts. This can include calling at your place of employment. In addition, a collection agency can demand full payment of the debt. It can, but does not have to, accept a partial payment plan.

"It says right here that I've won; it must be true."

So convincing have the fake "prize notifications" become, that even seasoned consumer advocates have trouble throwing away that big envelope with the green star on it. Recently a man drove to a publishing company's headquarters in Florida to pick up his prize from a former late night personality. He reported that when he got there, there were other consumers outside on the sidewalk, but that an armed guard blocked the lobby of the publishing company. Apparently the consumer was not the first one who had tried to claim his prize in person.

The Division places a strong emphasis on preventing consumer fraud and complaints through the use of statewide education. In addition to hundreds of media appearances (television, radio and newspapers), staff members have made speeches and presentations to various groups across the state. The staff solicits speaking engagements (schools, community and civic clubs, social and church groups, senior citizens, etc.) and distributes free printed material upon request. In 2002, the division provided assistance to more than 26,000 consumers. Many were phone inquiries, for which the division was able to answer questions, provide advice and furnish business or product information. The division's proactive consumer education philosophy prevented Utah consumers from wasting millions of dollars on consumer scams. The division also furthers consumer education through its website, consumer alerts, buyer beware list and numerous public service announcements airing throughout the year.

The investigative powers of the Division are an asset to consumers. The division is consistently taking a pro-active stance in its protection of consumers by requesting information on any product or service a business sells. At the request of the division, the Attorney General may take legal action against a person or business for a violation of any consumer protection statute. In 2002, more than twenty formal actions were completed against businesses and persons on behalf of the division.

Additionally, the Division cooperates with and assists the U.S. Department of Justice, the U.S. Postal Service, the Federal Trade Commission, the FBI, the Consumer Product Safety Commission, as well as district and county attorneys throughout Utah.

The Division registers health clubs, charities, telemarketers, professional fundraisers, personal introductory services, credit repair services, business opportunities and proprietary postsecondary schools.

The Division is also responsible for suggesting ways to simply, clarify and update state laws, which govern the protection of consumers and legitimate businesses. By researching consumer protection laws in other states and monitoring changes in Federal laws, the division is able to keep abreast of any new ideas or trends in consumer protection to better serve Utah consumers.

Division of Corporations and Commercial Code

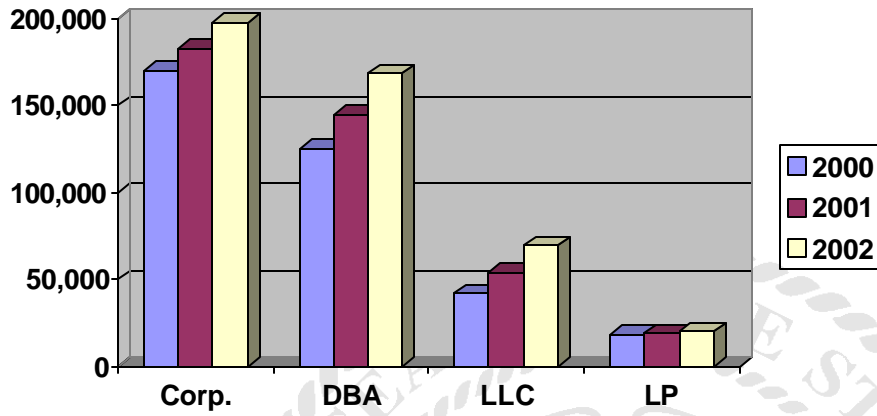
The Division of Corporations and Commercial Code is proud of its accomplishments during this year. The staff worked diligently to overcome the previous technological difficulties and ended the year with the backlog caught up and several new laws implemented.

Primarily among these new laws was the implementation of the Uniform Commercial Code Revised Article 9 (commonly referred to as RA9). The actual law was passed in the Utah General Legislative Session in 2000 with a delayed effective date of 1 July 2001. This law provided several dramatic changes to the filing of financing statement or UCC filings. First, there are no longer any signatures on the forms. Secondly, debtors are classified as either individuals or organizations. The organization debtors not only provide name and address but must also provide their jurisdiction information; i.e., type of entity, state of organization, file number, etc. Accompanying this new way of filing is a set of statutorily mandated forms. These forms can be found on our web site at www.commerce.utah.gov and are in PDF form to allow the user to download them. The greatest improvement however is the advent of online filing of UCC and CFS filings. These can be done at the web site and the filer will receive an immediate acknowledgement.

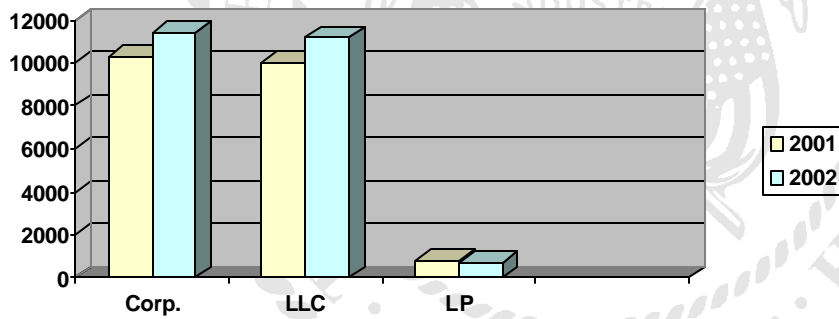
In the business entities side the division saw a few changes to nonprofit corporations and other business entities. The most important of these is the new conversion law. Any existing entity may now convert to another entity without losing its original date of organization. This new filing has been greatly received and widely used. You may get information at the web site, as well as forms for filing articles of conversion.

This year also saw the start of online renewals for business entities. When the entity receives its renewal notice, there is easy to follow information on how to renew online. This is just one more benefit of the new electronic government. Utah and the Division of Corporations are committed to Governor Leavitt's mandate to bring government to the people 24/7.

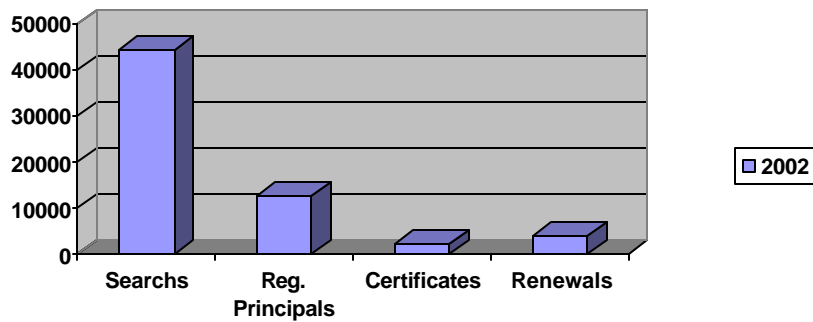
Total Business Filings



New Business Filings - 2002



Website Usage



Division of Occupational and Professional Licensing

Continued Advancements in Website Design

Following the launch of its completely redesigned website in June 2001, the Division has continued to make great advancements in the delivery of its web services. During the past year, online verifications and license renewal have been implemented with resounding success. Approximately 13 percent of all renewing professions are using online renewal at significant cost savings to the division.

Additionally, the site now contains direct access to proposed rule filings and monthly citation lists. Internet users can review the proposed change and provide direct feedback to respective division personnel. Users can also now view a list of only the most recently issued citations as well as a comprehensive listing of all citations issued back to the early 1990's. Further development on other updates to the site will also continue during the coming year.

Negotiations Completed in Acquiring UCCH Access

The Division has completed negotiations with the Utah Department of Public Safety and gained approval from the Utah Legislature for obtaining direct access to the Utah Computerized Criminal History File (UCCH). Access to the file will speed the application process and reduce licensure costs to applicants. Those professions directly affected by this change include nursing, massage, security, and burglar alarm.

Division Continues to Streamline Application Process

As in past years, the Division has continued to review, update, and streamline its applications and application processes. The Division's goal in doing this is to provide licensure applicants with a more user-friendly application process while providing time and cost savings to the Division.

The duty of the Division of Occupational and Professional Licensing is to safeguard the public health, safety and welfare through the licensing and regulation of individuals who are engaged in certain professions or occupations.

The Division licenses or registers more than 130,000 individuals in more than 100 occupational and professional classifications ranging from acupuncturists to veterinarians.

The functions of the Division can be categorized into four main areas:

1. Licensure

A. Establish standards and qualifications for licensure in each profession or occupation.

B. Establish and maintain a system through which an individual may qualify and apply for licensure.

C. Ensure that licensees comply with the requirements of their occupations and professions.

2002 LEGISLATIVE HIGHLIGHTS

H.B. 63 Licensing Amendments Regarding Background Checks

Allows the Division of Occupational Licensing direct access to Bureau of Criminal Identification records for the purpose of screening licensure applicants' criminal background history as required by statute.

H.B. 96 Licensure of Geologists

Adds a new licensing act requiring licensure of individuals practicing geology before the public. Provides for exemptions from licensure. Creates a Professional Geologist Licensing Board and sets forth its duties and membership. Establishes license qualifications, defines unlawful and unprofessional conduct, creates an education and enforcement fund, provides citation authority and penalties. Provides for the use of seals and delineates the circumstances under which they may be used.

H.B. 112 Health Care Malpractice Act Amendments

Amends the definition of a health care provider and health care facility to clarify the type of health care facilities included in the act.

H.B. 128 Controlled Substances Act Amendments

Modifies the Controlled Substances Act by allowing up to three prescriptions for the same Schedule II controlled substance medication to be issued at the same time. Requires specific dispensing dates on the prescriptions. Requires all prescriptions for Schedule II medications to be filled within 30 days after issue or dispensing date.

H.B. 133 Natural Gas Technician Certification

Modifies the Utah Construction Trades Licensing Act by requiring a person who installs or repairs a residential or commercial natural gas appliance or a combustion system, whether licensed or exempted, to become certified. Provides for certain exemptions, adds and modifies certain exemptions and modifies unlawful conduct provisions.

2. Enforcement of Professional Standards

A. Investigates allegations of unlawful, unethical or unprofessional conduct by licensees.

B. If allegations are verified, initiates administrative action against the respective licensee.

C. The Division can also initiate administrative or criminal action against a licensee who is engaged in the practice of an occupation or profession without proper licensure.

3. Medical Malpractice Pre-litigation

A. Before an individual may file suit in civil court against any licensed health care provider for medical malpractice, the individual must file with the Division for a pre-litigation hearing for the purpose of determining if the facts alleged in the suit are meritorious.

4. Residence Lien Recovery Fund

Protects homeowners from paying twice for construction work. Provides remedy to those who lose income due to unethical contractors.

H.B. 205 Construction Services Commission

Creates the Construction Services Commission within the Division of Occupational and Professional Licensing. Establishes composition and term of office. Shifts duties and responsibilities of division to the commission subject to concurrence of division director. Modifies individual qualifier requirements and makes technical amendments.

H.B. 266 Hearing Instrument Specialist Amendments

Modifies qualifications for licensure of hearing instrument interns and defines how they apply to existing licensees. Provides additional definitions of unprofessional conduct.

H.B. 279 Professional Employer Organization Licensing Act Amendments

Modifies the financial requirements for professional employer organizations. Provides standards for health benefit plans. Amends procedure for refusing to renew license of a professional employer organization. Amends definition of unprofessional conduct

S.B. 50 Utah Medical Practice Act Amendments

Reestablishes the fifth pathway program for licensure for individuals enrolled in certain foreign medical schools. Establishes requirements for fifth pathway program.

S.B. 51 Nurse Practice Act Amendments

Repeals the Health Care Assistant Registration Act and incorporates it into the Nurse Practice Act. Amends composition of the board of nursing, license classifications, and qualification for licensure. Requires all licensees or registrants to submit to a criminal background check. Provides limited exemptions from registration as a health care assistant. Amends provisions related to grounds for denial, unlawful conduct and disciplinary actions to incorporate health care assistants.

Total Licensees by Profession (as of 6/30/02)	
Acupuncturists	51
Advanced Practice Registered Nurse (3)	903
Alternative Dispute Resolution Providers (3)	49
Architects	1,853
Athlete Agents	0
Building Inspectors (2)	508
Burglar Alarm Agents	857
Burglar Alarm Companies	83
Certified Nurse Midwives (3)	103
CPA's	3,484
CPA Firms	648
Certified Registered Nurse Anesthetists	172
Chiropractic Physicians	718
Construction Trade Instructors (4)	18
Contractors (74)	18,077
Controlled Substance Precursor Purchaser/Distributors	12
Cosmetologist/Barbers (3)	19,728
Deception Detection Examiners (2)	27
Dental Hygienists (2)	1,256
Dentists (4)	2,088
Dietitians	474
Electricians (5)	6,885
Electrologists (2)	167
Engineers (2)	6,967
Environmental Health Scientists (2)	243
Estheticians (2)	981
Esthetician Instructors (2)	31
Factory Built Housing Dealers	72
Funeral Service (3)	393
Health Care Assistants	10,244
Health Facility Administrators	309
Hearing Instrument Specialists (2)	85
Land Surveyors	664
Landscape Architects	284
Licensed Practical Nurses (2)	3,413
Marriage and Family Therapists (2)	472
Massage Therapists (2)	4,016
Nail Technicians (3)	1,861
Naturopathic Physicians (3)	10

S.B. 55 Amendments to Utah Uniform Building Standards Act

Clarifies and modifies the circumstances in which political subdivisions are required to follow codes adopted by the division in collaboration with the Uniform Building Code Commission. Authorize division in collaboration with commission to approve certain codes without adopting them. Authorizes political subdivision discretion to adopt an approved dangerous building code or rehabilitation code.

S.B. 86 Funding of Controlled Substance Database

Allows for funding of the controlled substance database through the Commerce Service Fund and provides for civil penalties to be deposited into the fund..

S.B. 100 Pharmacist Licensing Amendments

Amends the definition of practice of pharmacy to include counseling regarding drug interactions with food and nutrients. Includes violating a patient's right to privacy as unprofessional conduct.

S.B. 109 Licensing of Genetic Counselors Technical Amendments

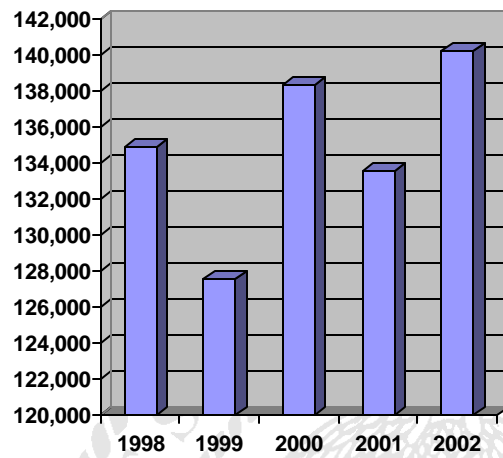
Amends the qualifications for licensure by permitting a degree equivalent to a masters or doctoral degree as determined by the division.

Occupational	
Therapists (2)	569
Optometrists (3)	371
Osteopathic	
Physicians	200
Pharmacists (4)	4,484
Pharmacies (15)	1,021
Physical	
Therapists	1,354
Physician	
Assistants	386
Physician/	
Surgeons	6,695
Plumbers (4)	3,249
Podiatric	
Physician	177
Preneed Funeral	
Arrangement (2)	285
Private Probation	
Providers	34
Professional	
Counselors (2)	389
Professional Employer	
Organizations	50
Psychologists (2)	757
Radiology Technologists &	
Technicians (2)	1,926
Recreational	
Therapists (3)	784
Registered	
Nurses (2)	18,106
Respiratory Care	
Practitioners	953
Security Companies	37
Security Personnel (2)	3,546
Shorthand	
Reporters	146
Social Workers (4)	4,920
Speech-Language Pathologists &	
Audiologists (3)	619
Substance Abuse	
Counselors	315
Veterinarians (2)	563

Total: 140,154

(Occupations having multiple licensure classifications are noted in parentheses)

Total Licensees 1998- 2002



Total Licensees

1998 – 134,893

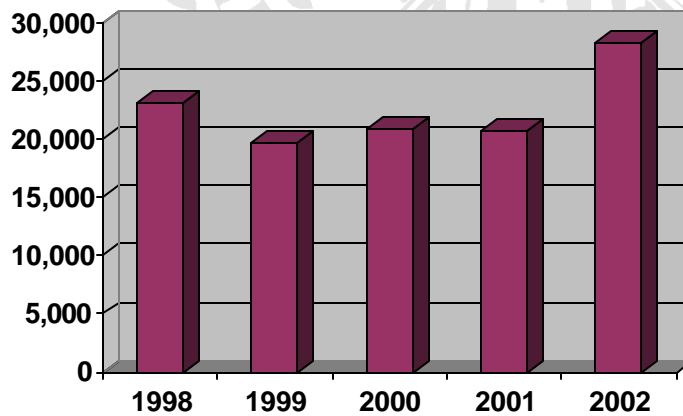
1999 – 127,560

2000 – 138,262

2001 – 133,517

2002 – 140,154

New Applications 1998 - 2002



New Applications

1998 – 23,125

1999 – 19,657

2000 – 20,796

2001 – 20,669

2002 – 28,275

Investigations

<u>Fiscal Year Results</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>	<u>FY02</u>
Complaints Received	3,936	4,413	5,776	4,567	3,215
Investigations Opened	2,595	2,859	5,048	3,942	2,897
Investigations Completed	2,743	2,858	2,127	3,409	3,391
Formal Administrative Filings	175	190	171	208	265
Criminal Filings - Felonies	43	104	58	56	36
Criminal Filings - Misdemeanors	150	138	71	29	27
Letters of Concern Issued	177	155	142	223	220
Citations Issued	1,048	979	1,033	1,259	904
Diversion Referrals Issued	17	32	55	28	23
Fines Collected	\$310,640	\$304,090	\$375,718	\$215,975	\$295,451

Prelitigation

	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>	<u>FY02</u>
Cases Opened	386	354	397	372	392
Requests Denied	51	54	60	104	63
Hearings Scheduled	296	299	279	243	324
Cases Closed	353	381	374	371	433

Outcome of Prelitigation Cases

	<u>FY00</u>	<u>FY01</u>	<u>FY02</u>
No Merit	174	160	230
Dismissed	63	53	43
Stipulation	59	52	52
Meritorious	28	34	33
Split Decision	46	54	67
Jurisdiction Problem	3	17	8
Undecided	2	1	0

Residence Lien Recovery Fund

Totals for FY02

Claims Filed	329
Amount of Claims Filed	\$2,046,335.67
Claims Paid	193
Amount of Claims Paid	\$1,078,302.26
Claims Denied	54
Claims Withdrawn	15

Totals Since Program's Inception

Claims Filed	1,275
Amount of Claims Filed	\$6,767,103.15
Claims Paid	800
Amount of Claims Paid	\$3,926,027.12
Claims Denied	265
Claims Dismissed	104
Claims in Prolonged Status	48
Claims Pending Prosecutor Review	4
Claims Pending LRF Board Review	47
Claims Pending Claimant Response	18
Claims Pending Division Review	33

Claimant Statistics

		Amount Paid
Claims Filed by Suppliers	544	\$2,199,229.45
Claims Filed by Contractors	502	\$1,237,097.39
Claims Filed by Laborers	33	\$ 0.00

Fund Status

Investment Account Balance (8/01/02)	\$1,435,475.33
Operating Account Balance (8/01/02)	\$179,661.02

Diversion - URAP (Utah Recovery Assistance Program)

FY2002

Committee Meetings Conducted:	48
Diversion Interviews Completed:	460
New Contracts Signed:	26
Files Closed	- Successfully: 18
	- Unsuccessfully Terminated: 16

Clients participating in URAP as of June 30, 2002

Physicians	19
Physician Assistants	1
Podiatrists	1
Pharmacists	5
Pharmacy Technician	1
Dentists	7
Nurses	59
LCSW's	4
LSAC	1
SSW	1
Dental Hygienists	1
Veterinarians	2
Physical Therapist	1
Funeral Director	1
Rad Tech	2
Health Care Assistants	2
Total:	108

Controlled Substance Database
Totals for FY2002

Requests for Information	28,743
Pharmacies Now Reporting to the Database	430

Division of Real Estate

The Utah Division of Real Estate provides public protection in the real estate marketplace through the education, licensure, and regulation of real estate brokers, sales agents and appraisers; the registration and regulation of residential mortgage lenders; and the registration of subdivisions, time-share developments, and camp resorts, and their salespersons.

As of June 30, 2002 Utah had 15,260 real estate licensees, 1,003 appraiser licensees, 6,389 individual residential mortgage lenders and 1,320 mortgage lending entities (companies), totaling 7,709 mortgage lenders.

EDUCATION

As to the real estate and appraising industries the Division is charged with certifying courses and providers of pre-licensing education, and certifying continuing education courses and providers. During the past calendar year 25 education programs have been certified, 303 continuing education classes were certified, 36 pre-licensing real estate instructors were certified, 16 appraiser instructors were certified, and 173 real estate continuing education instructors were certified.

The Division also provides courses and information directly to the licensees involved in the real estate and appraising industries. During the last fiscal year the Division published 6 separate issues of industry specific newsletters mailed to licensees. The Division sponsored an Instructor Development Workshop to which all real estate and appraiser instructors were invited. The workshop was a two-day event and included presentations by nationally renowned real estate educators.

The Division focuses on four main areas of responsibility:

1. Licensure/registration/certification

a. Establish standards and qualifications for licensure within the real estate professions.

b. Establish and maintain a system through which an individual may qualify and apply for licensure.

c. Ensure that licensees comply with requirements of the profession.

2. Enforcement

a. Investigate allegations of unlawful, unethical or unprofessional conduct by licensees.

b. Initiate administrative action against an individual's license, if allegations of violations are verified.

c. Initiate administrative or criminal action against an individual who is engaged in the practice of a profession without proper licensure.

3. Education

The Division provides ongoing education to the real estate community and the public on the most recent rules governing the industry, as well as issues that affect consumer and the public.

The Division's primary duty is to protect the public.

4. Subdivision / Timeshare registration.

The Division is charged with administering pre-licensing examinations for real estate licensees and for appraisers. (There is currently no examination requirement for mortgage brokers). During the past fiscal year 2,376 real estate agent exams were given and 225 broker exams were given. 125 appraiser exams were given: 48 for Licensed Appraiser candidates, 69 for Certified Residential Appraiser candidates, and 8 for Certified General Appraiser candidates.

The Division of Real Estate can be reached by calling 801-530-6747, by Fax at 801-530-6749 or by emailing us at realest@commerce.utah.gov. Our website is located at www.commerce.utah.gov.

ENFORCEMENT

One of the major challenges of the Division of Real Estate is protecting the public through the enforcement of real estate, appraiser, and mortgage lender laws, rules and regulations.

The enforcement staff of the Division is responsible for reviewing each complaint received and making an initial determination as to whether or not there appears to be an alleged violation of real estate licensing law or regulations. If the answer is affirmative, the case is assigned for investigation to an investigator or auditor trained and experienced in the relevant subject matter. If the results of the investigation determine that there has been no violation of licensing law or regulation, the case is dismissed. On the other hand, if there is evidence of a violation of law or regulation, the case is prosecuted through a formal or informal hearing before the applicable licensing board or commission.

During the past fiscal year, the Enforcement Section responded to a substantial increase in the incidence of residential mortgage loan fraud. Through the Division's investigative efforts, several appraisers who were involved in fraudulent loan transactions either had their licenses revoked, or surrendered their licenses to the Division in lieu of revocation.

Statutory Elimination of Registered Appraiser Classification

In the year 2000, the Division of Real Estate and the Appraiser Board worked with the Utah Legislature to Substantially amend the statute that governs how an individual becomes licensed or certified as an appraiser in Utah. The amendment was enacted in order to comply with federal regulatory requirements. This year the amendment came into effect. Specifically, the amendment eliminated the classification of "Registered Appraiser" as of May 2, 2001. This generated well over 125 applications for the remaining classifications of Licensed Appraiser or Certified Appraiser. A number of those were processed last fiscal year, but the great majority were dealt with and resolved in the early months of this fiscal year.

REGULATING A NEW INDUSTRY

The Division also had a continuing stream of work that resulted from another change in its governing statutes. In 2000, the Utah Residential Mortgage Practices Act was enacted, requiring all persons engaged in the business of residential mortgage lending in the state of Utah to register with the Division in order to conduct business. Individuals were required to register by September 1, 2000. Entities (companies) were required to register by July 1, 2001. The entity deadline triggered numerous individuals into registering who had not, but should have, registered before. The process of registering a new industry presented several complex questions about bonds, applications, and fingerprint and background checks.

The Utah Division of Real Estate continues to work toward improving the quality of service rendered to the public, the licensees it regulates, and the applicants for such licenses. Our goal is to protect the public, while being responsive to the professional needs of applicants and licensees.

The Division has processed that large surge of entity applications from July 1, 2001. Moreover, the number of new mortgage applications to the division, for both individuals and entities, has continued at a surprisingly high and consistent rate throughout this fiscal year.

Complaints and Investigations Fiscal Year 2002			
<u>Written Complaints Received</u>		<u>Investigations Completed, Pending review by Attorney General</u>	
Real Estate	158	Real Estate	24
Appraiser	173	Appraiser	10
Mortgage	105	Mortgage	2
<u>Complaints Accepted for Investigation</u>		<u>Investigations Completed, Pending review by Division of Real Estate</u>	
Real Estate	93	Real Estate	62
Appraiser	98	Appraiser	21
Mortgage	46	Mortgage	6
<u>Complaints Closed after Investigation</u>		<u>Total Open Cases</u>	
Real Estate	141	Real Estate	291
Appraiser	192	Appraiser	195
Mortgage	24	Mortgage	36
<u>Closed Cases (licensing/renewal)</u>		<u>Active Investigations</u>	
Real Estate	65	Real Estate	182
Appraiser	31	Appraisers	160
Mortgage	19	Mortgage	23

Total Licenses by Profession FY 2002	
<u>Real Estate</u>	
Registered real estate companies	1884
Registered real estate property management companies	73
Real estate branch offices	102
Principal brokers	1960
Branch brokers	102
Associate brokers	999
Sales agents	8027
Inactive principal brokers and sales agents	4168
Suspended sales agents	4
Total	15,260
<u>Appraisers</u>	
Registered (493 at statutory expiration of "Registered" status on May 2, 2001)	0
Licensed	86
Certified Residential	581
Certified General	336
Total	1,003
<u>Mortgage Brokers</u>	
Individuals	6389
Entities	1320
Total	7,709

TOTAL LICENSES FY 99-02				
2177	1781	999	1003	Appraisers
14459	14624	14762	15260	Real Estate
0	0	1227	7709	Mortgage Brokers
FY 99	FY 00	FY 01	FY 02	

Division of Public Utilities

Utility services play a unique role in our society. Unlike most goods and services, utilities are considered essential to the public welfare. The Division of Public Utilities promotes the public interest in utility regulation and works to ensure that all utility customers have access to safe, reliable service at reasonable prices.

Significant changes are occurring within the utility industries. During FY 2002, the number of utilities regulated by the Public Service Commission (PSC) decreased, due primarily to fourteen telephone companies discontinuing local service in Utah.

Utility Growth

Type of Utility	2001	2002	Change
Electric	13	13	0
Natural Gas	2	2	0
Telecommunications – ILEC	21	21	0
Telecommunications – CLEC	97	83	-14
Water and Sewer	37	34	-3
Railroads	4	4	0
Total	174	157	-17

The Division of Public Utilities is charged with monitoring utility compliance to PSC rules and orders, recommending rate and service levels, and handling customer complaints. During FY 2002, the number of informal complaints from utility customers processed by the Division totaled 2,945 a 4% increase over the previous year.

The Division is the advocate for the safe, efficient and reliable operation of all public utilities within Utah. It promotes the interests of all ratepayers in obtaining reasonable levels of service at the lowest possible cost. Additionally, the Division receives and investigates complaints against utility companies and makes recommendations for corrective action to the Utah Public Service Commission. In this era of deregulation for certain utilities, the Division assists the Commission in establishing the rules of competition. Consumers benefit from deregulation when market power is mitigated and competitive choices are available. The offices of the Division of Public Utilities are at: (801) 530-7622.

Utility Complaints	2001	2002
Electric	254	341
Natural Gas	435	482
Telecom – ILEC	1,170	1,480
Telecom – CLEC	656	392
Telecom - Long Distance	116	217
Water and Sewer	179	3
Total	2,810	2,915

Telecommunications

The competitive landscape of the telecommunication industry in 2002 has continued its dynamic change from traditional residential voice and business services, provided by a single monopoly, to a much broader field with new modes of advanced services and multiple carriers. The past year has brought many challenges to Utah's telecommunication industry, including declines in market valuations, job layoffs and bankruptcies. The overall downturn in the national economy has impacted the telecommunication markets dramatically. In spite of this, Utah's telecommunication markets are still showing signs of moderate growth and resiliency and have continued to advance toward a competitive market. This is evidenced by the fact that Utah telecommunication companies have invested \$98 million in capital improvements and have accrued more than \$780 million in revenue this year. In addition, competitive providers are present in 69 percent of Utah's 29 counties.

The basic purpose of the 1996 Federal and 1995 state legislation was to establish a new regulatory model for telecommunications to reflect the transition to a competitive marketplace. Utah's telecom market is currently in the midst of a transition from a traditional monopoly to an open and competitive market. Competition can promote lower prices, innovation, and improved service. During the transition period, the Division of Public Utilities works on regulation that facilitates economic development and protects consumers. To further the transition to competition, the division reviewed and worked on several major issues during the past year in Utah – new reporting rules, collocation, service quality, interconnection agreements, prices of

In 2002 the Division of Public Utilities along with the Utah Public Service Commission completed a two-and-a-half year process of reviewing Qwest's petition to provide long distance service within its own region. This opportunity is provided to incumbent local exchange carriers under section 271 of the federal Telecommunication Act of 1996, whereby a regional Bell operating company may offer long distance service after showing it has sufficiently opened its local markets to competition. As part of the review, the division participated in several collaborative processes with other states, including a system-wide test of Qwest's network and operating systems, the creation of performance guidelines and measures and development of a post-entry performance plan to ensure that Qwest's network remains open to local competition once it is granted section 271 approval.

unbundled network elements, tariff filings, and universal service funding policies affecting Utah carriers. The division continues to monitor all telecommunications activity and makes recommendations to the Utah Public Service Commission on key issues.

Energy

The Division of Public Utilities helps the Utah Public Service Commission regulate the traditional utilities in the energy sector. This includes PacifiCorp/Utah Power, Questar Gas Company, Utah's nine rural electric cooperatives and one electric service district. The division also participates in proceedings before the Federal Energy Regulatory Commission involving issues such as wholesale transportation of electricity and natural gas. The Pipeline Safety Group within the energy section has the mandate to investigate conditions within the state relative to the safe piping of natural gas.

Electricity

During this past fiscal year, western wholesale electricity prices returned to normal levels from the very high levels in fiscal year 2001. The energy section worked on an electric general rate case and three other major cases where PacifiCorp had requested increases in electric rates to recover excess power costs incurred from market purchases when prices were very high in the West. One of these cases related to the 5 ½ month mechanical failure outage of PacifiCorp's Hunter I power plant in Emery County which started in late 2000, with PacifiCorp having to replace that power with purchases on the open market.

Hearings in 2002 before the Public Service Commission, which included a stipulated agreement between parties, resolved the Hunter failure and other excess power cost claims by PacifiCorp. PacifiCorp had initially asked for \$103.5 million in excess power cost rate relief for Hunter and \$102 million for power purchase contracts for a total of \$205.5 million.

In July 2002, the Utah Public Service Commission issued its Final Order recommending approval of Qwest's petition and Qwest filed its petition with the FCC to enter Utah's long distance market. The FCC is reviewing Qwest's application.

This was in addition to the \$40.6 million rate increase allowed PacifiCorp by the Commission in September of 2001 as a result of the resolution of the rate case. The Commission's order in the last three cases limited the requested short term power cost rate increase of \$205.5 million to approximately \$140 million and introduced a rate freeze at year 2002 levels for all of Utah's PacifiCorp customers until January 1, 2004 and it orders the removal of the excess power cost recovery customer surcharge on March 31, 2004.

The Division is still working with PacifiCorp and with the Public Service Commissions of California, Idaho, Oregon, Washington and Wyoming regarding PacifiCorp's request for a total corporate restructuring. This important multi-state process involves extensive investigation and coordination with all parties for a resolution. During the July 2001 through the June 2002 fiscal year the energy section participated in 50 docketed electric cases.

Pipeline Safety

The Pipeline Safety Group derives its authority from federal statutes, which have been adopted by the State of Utah. The group has the mandate to investigate conditions within the State relative to piping of natural gas. Pipeline safety works with natural gas distribution companies within the state such as Questar Gas and municipal operators. In addition, several hundred small gas system operators, which purchase gas from a distribution company and further distribute it within their facilities fall under the group's jurisdiction. The group is responsible for determining the state of these small gas systems and working with the operators to assure that the systems are either inherently safe or that some protection measures are installed to assure their safety against leaks.

Natural Gas

During the 2002 fiscal year the energy section participated in eight docketed natural gas cases. The rates of Questar Gas Company decreased 25% for the typical residential customer during the fiscal year due primarily to decreases in the cost of acquiring natural gas. This is in sharp contrast to the 45% increase reported in fiscal year 2001. The net effect is that rates on July 1, 2002 are 11% higher than they were on July 1, 2000. The major reason for this past year's decrease was a general decline in spot prices at the natural gas wellhead. On May 3, 2002 Questar Gas Company filed an application for a general rate increase of \$23,017,000 with the Utah Public Service Commission. The impact of the typical residential customer would be an increase of 5.65%.

Pipeline safety personnel conduct in-depth inspections of these operators on an annual basis. These inspections assure that operator procedures and operations are consistent with federal regulations for safe functioning of natural gas systems.

Since the PSC regulations for pipeline safety were changed in 1996 to include jurisdiction over schools, hospitals, and other high-risk facilities, pipeline safety personnel have initiated programs at most of the school districts in Utah to correct any safety-related issues with natural gas piping. Most of this work has now been completed, particularly in the larger school districts where the risk is greatest. Work is now progressing on establishment of remedial measures to those hospitals and nursing homes where such actions were found to be necessary to bring natural gas systems into compliance with federal and state regulations. Contact with all such facilities in need of remedial measures should be completed during 2002.

Recent establishment of the federal operator qualification rule for natural gas systems has required that Utah set up guiding principals designed to bring master meter operators into compliance with this new federal rule. Guidelines have been developed during the past year to encourage vendors currently working with operators to also provide services related to operator qualification. Six vendors have now developed their own procedures to aid operators in developing operator qualification plans.

Pipeline safety work with apartment complexes and other similar facilities continues to result in modifications to those gas systems which were found to be deficient in safety of gas piping. Wherever possible, pipeline safety personnel recommend that underground steel piping be relocated above ground, inasmuch as the method of deficiency remediation generally minimizes cost and complexity of future operations.

For the two-year period leading up to the 2002 Winter Olympics, pipeline safety was heavily involved in assuring that proper attention was given to safety of natural gas and propane systems being developed for the Games. Final audit of all the Olympic venues showed

The major reasons stated by the company for the increase are the costs of adding new customers, a general decline in the usage per customer, the loss of Section 29 tax credits and a requested increase in return on equity from 11% to 12.6%. Hearings are scheduled for October of 2002.

that temporary systems set up for the games were constructed in accordance with federal and state regulations.

Results of federal inspections of our work consistently place us in the highest tier of federal performance criteria, which translates into Utah receiving the maximum amount of funds available through the federal pipeline safety program.



Division of Securities

During the past year the securities industry experienced large deviations in market values. The industry was also plagued with the revelations of one corporate scandal after another in which several public corporations were accused of misleading investors through deceptive accounting practices and overly optimistic public disclosure. Symptomatic of these corporate indiscretions, the Division of Securities experienced a corresponding increase in the number of complaints filed.

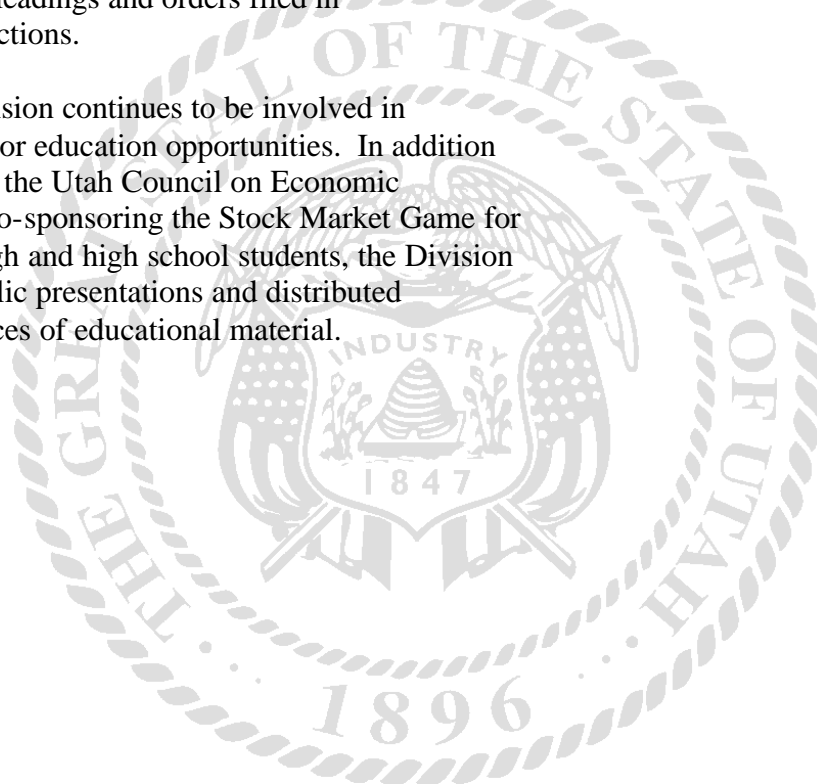
In dealing with these types of problems, the Division of Securities continued its strong enforcement program. During the past year, the Division's investigations resulted in 66 felony criminal filings and 30 felony convictions with many more cases in the process. The Division more than doubled the number of Orders to Show Cause for a total of 65 and the number of cease and desist orders rose from 3 to 24. The Division recovered or obtained recovery orders representing more than \$16 million of investor losses.

The declining markets contributed to the first decrease in the number of stockbrokers licensed in Utah since 1988. The Division of Securities issued 87,856 licenses of which 82,945 licenses were for broker-dealer agents, otherwise known as stockbrokers. The vast majority of these licensees are not residents of the state. Rather, about 90% of the State's licensed stockbrokers live on the East Coast. The division embarked on a major case involving conflicts of interests of securities analysts. The division participated in a multi-state task force which was set up to investigate the misconduct of analysts and is leading the investigation into one of the 14 firms that is being targeted by the Task Force

To enable electronic licensing for investment advisers, the Division sought to fully implement the use of the Investment Adviser Registration Depository (IARD). The IARD supplements the Central Registration Depository (CRD), which has been in place for more than 20 years. Investment advisers and their representatives are currently transitioning to the IARD and the end of calendar year 2002 will mark the first time that all investment advisers and their representatives will be required to renew electronically.

The Division continues to enhance its services and information through the Internet. All of the division's public databases are available for public inspection through the Internet. In addition to the information found through the CRD and IARD, the information available includes securities filings, investment advisers, investment adviser representatives, issuer agents, and administrative actions. As part of the division's Internet database, the division has made available images of all interpretative opinions, no-action letters, and all pleadings and orders filed in administrative actions.

The Division continues to be involved in providing investor education opportunities. In addition to working with the Utah Council on Economic Education and co-sponsoring the Stock Market Game for Utah's junior high and high school students, the Division made many public presentations and distributed hundreds of pieces of educational material.



UTAH DIVISION OF SECURITIES
STATISTICS

<u>Enforcement</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>
Complaints Received	167	183	206	106	110	172
Cases Opened	86	102	136	112	89	106
Cases Closed	77	103	160	66	73	118
Administrative Cases						
Cases Filed	21	55	37	80	155	141
Orders to Show Cause	2	5	15	25	29	65
Cease and Desist Orders	0	6	5	11	3	24
Stipulated Settlements	8	11	18	22	47	20
Denials and Revocations	7	31	3	14	29	26
Civil Cases						
Lawsuits filed	2	0	0	1	0	1
Judgments	1	0	1	0	1	0
Criminal Cases						
Criminal Charges Filed	18	18	24	50	35	66
Convictions	6	16	23	28	15	30
Audits	40	44	31	20	32	28
Fines Paid	\$128,850	\$201,650	\$181,026	\$241,200	\$155,620	\$51,943
Funds Recovered or Ordered	\$3,818,226	\$3,155,659	\$11,467,399	\$4,256,132	\$7,189,526	\$16,582,868

<u>Licenses</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>
Broker-Dealers	1,465	1,641	1,703	1,878	2304	1,868
Broker-Dealer Agents	57,353	65,838	70,482	84,623	94,715	82,945
Investment Advisers	102	121	116	121	142	129
Federal Covered Advisers	253	425	428	456	525	588
I/A Representatives	5,164	3,326	1,953	1,683	1,937	2,013
Certified Dealers	16	14	19	21	22	20
Certified Dealer Agents	86	79	88	82	96	97
Issuer Agents	87	93	107	130	169	196
Total	64,635	71,496	74,902	88,994	99,910	87,856

<u>Securities Filings</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>
Registrations						
Coordination	290	212	134	148	125	127
Qualification	3	9	5	8	3	1
Exemptions	321	281	223	191	86	68
Opinion/No-Action Letters	14	8	12	6	12	3
Mutual Funds	3,610	3,942	3,951	4,215	4,413	3,915
Rule 506	149	281	327	508	484	412
Total	4,387	4,733	4,652	5,076	5,123	4,526

Please Note: The FY02 statistics are preliminary statistics which are subject to change after the year-end reconciliation's are completed.